

YOUTH SERVICES POLICY

Title: Employee Grievance Procedure Next Annual Review Date: 08/24/2012	Type: A. Administrative Sub Type: 2. Personnel Number: A.2.46
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References: ACA Standards 2-CO-1C-01, 2-CO-1C-02 (Administration of Correctional Agencies); 4-JCF-6D-01, and 4-JCF-6D-04 (Performance-based Standards for Juvenile Correctional Facilities); CJCA Performance-based Standards JEP5, JEP7, JEP9, JEP11, JP5, JP7, JP10; YS Policy No. A.2.1 "Employee Manual"; Civil Service Rule 3.1 (m), and the Louisiana Department of State Civil Service Human Resources Handbook	
STATUS: Approved	
Approved By: Mary L. Livers, Deputy Secretary	Date of Approval: 08/24/2011

I. AUTHORITY:

Deputy Secretary of Youth Services as contained in La. R.S. 36:405. Deviations from this policy must be approved by the Deputy Secretary.

II. PURPOSE:

To establish a formal and uniform procedure at the unit level to address certain employee concerns and issues not appealable to the Director of Civil Service or to the Civil Service Commission.

III. APPLICABILITY:

All currently employed Youth Services (YS) employees. Each Unit Head shall ensure that appropriate procedures are in place to comply with the provisions of this policy.

IV. DEFINITIONS:

Business Days - Monday through Friday.

Calendar Days - Consecutive days including weekends and holidays.

Confidential Information - Information that is deemed confidential either by statute, court decision, or Civil Service Rule. Information that can remain confidential includes that information for which an employee has a reasonable expectation of privacy.

EEOC-Equal Employment Opportunity Commission - The U.S. Equal Employment Opportunity Commission (EEOC) is the federal regulatory agency responsible for enforcing federal laws that make it illegal to discriminate against a job applicant or an employee because of the person's race, color, religion, sex (including pregnancy), national origin, age (40 or over), disability or genetic information. It is also illegal to discriminate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit.

Grievance - A grievance is an official, internal agency procedure used to resolve employee complaints and other personnel actions that are not appealable to the Civil Service Director or to the Civil Service Commission or are complaints or charges which could be filed with the EEOC.

Harassment - Harassment is an act committed by a person that makes another feel uncomfortable, offended, intimidated or oppressed. Harassment that is prohibited by law includes harassment based on sex, religion, gender, race, national origin, age and disability.

Federal law distinguishes two types of sexual harassment. The first is *quid pro quo*. Under *quid pro quo*, a person in authority demands sexual favors from a subordinate in exchange for employment security or job benefits. The second is identified as hostile workplace/environment harassment. This occurs when offensive conduct is severe enough for an employee to not want to go to work or not be able to perform his job to his usual standards because of the workplace harassment he or she is experiencing.

Hearing/Grievance Hearing - an informal meeting between a supervisor and an employee conducted to allow the employee the opportunity to air his grievance and to allow the supervisor the opportunity to resolve the grievance when possible.

Human Capital Management System (HCM) - a system that replaced the state employee payroll processing formerly performed by ISIS .

Unit Head - Deputy Secretary, Assistant Secretary, Undersecretary, Deputy Undersecretary, Chief of Operations, Deputy Assistant Secretaries, Facility Directors, and Regional Managers.

V. POLICY:

It is the Deputy Secretary's policy to have an internal grievance process in place at all units and offices in order that employees can seek a fair and impartial review of their grievances and a fair resolution of their grievance when appropriate.

VI. GENERAL PROVISIONS:

It is recognized that in any organization conditions develop and misunderstandings arise that may cause dissatisfaction and resentment. Normally problems and differences can be settled as part of the day-to-day routine. Supervisors should objectively investigate and discuss all complaints brought to their attention as soon as possible, giving them their immediate attention with the express intent of finding a reasonable solution to the complaint or concern.

A "grievance procedure" is a method by which employees can describe their grievance, have it reviewed by ascending levels of authority, and receive a resolution of the grievance. The procedure is intended for use when a dissatisfaction that cannot be resolved by less formal means arises in a day-to-day relationship between employees or between an employee and their employer.

Employee problems should be resolved at the lowest possible supervisory level and at the earliest opportunity. The Employee Grievance Procedure is an official, internal agency procedure used to resolve work related employee issues and other personnel issues that cannot be settled by informal means and that are not appealable to the Director of Civil Service or the Civil Service Commission [see Attachment A.2.46 (a) "Choosing the Right Process"]. The grievance procedure is handled entirely within YS and is eventually decided by the Deputy Secretary/designee if not at a lower level.

Employees of YS are encouraged to make use of the agency's grievance procedure when informal efforts to resolve differences do not suffice; however, nothing contained herein should be construed as denying employees the right to grieve to the Louisiana Civil Service Commission, or any other outside entity from which relief may be requested directly.

Grievances shall be filed using the attached Employee Grievance Form [see Attachment A.2.46 (b)]. The grievance forms are accessible on the OJJ website under "OJJ forms", and as an attachment to this policy. Grievances concerning sexual harassment shall be handled in accordance with YS Policy A.2.8. Performance, Planning and Review (PPR) complaints or appeals shall be addressed through procedures outlined in the PPR section of the Employee Manual.

The procedure outlined in this policy is a method of determining the specific cause for a grievance and finding the best resolution. This procedure applies only to current YS employees. An employee who files a grievance, as well as the party he/she filed the grievance against, shall have no right to legal representation. The person against whom the grievance/complaint is made shall have the right to give a statement.

Retaliation against an employee who files a grievance is strictly prohibited.

No employee may use their position to coerce, attempt to coerce, or influence in any manner a hearing officer, member of a grievance committee or other person involved in the grievance process. An employee who uses their official position in such a manner shall be subject to disciplinary action.

Information concerning an employee grievance shall remain confidential.

VII. ISSUES NOT APPROPRIATE FOR EMPLOYEE GRIEVANCE PROCESS:

- A. Grievances arising from allegations of sexual harassment may be filed as a grievance, but will likely be handled in accordance with YS Policy No. A.2.8.
- B. Performance Planning and Review (PPR) complaints or appeals shall be addressed through procedures outlined in YS Policy No. A.2.45. PPR complaints should go to Civil Service as appeals, as Civil Service is the agency with jurisdiction over these matters and are the only agency that can order that a PPR be changed.
- C. Complaints or charges alleging discrimination based on race, color, sex, religion, national origin, age and disability should be filed with the Equal Employment Opportunity Commission (EEOC), the federal regulatory body for EEOC related complaints and charges. An employee may, however, file a complaint of this nature through the grievance process if they wish.
- D. Appeals of letters of warning, reprimand, or counseling shall not be handled through the grievance procedure. Employees in receipt of such performance letters have the opportunity to respond in writing, and a copy of their response must be attached to each copy of the letter maintained by YS.

Human Resources is responsible for determining whether an issue should be processed through the employee grievance procedure, a Civil Service appeal, or the EEOC.

VIII. STEPS IN THE GRIEVANCE PROCEDURE:

- A. Step One
 - 1. Using the Employee Grievance Form, the employee shall present their grievance to their immediate supervisor within 14 calendar days from the date the employee first became aware of, or should have become aware of, the cause of such grievance.
 - 2. The supervisor shall forward a copy of the grievance to the Unit Head, who shall forward a copy of the grievance to Central Office (CO) HR.
 - 3. The supervisor shall meet with the employee to discuss the grievance and try to come to a resolution of the problem.
 - 4. The supervisor shall provide a written response to the grievance by completing Step One of the Employee Grievance Form, and furnishing a copy to the employee and the Unit Head within seven (7) calendar days following the receipt of the grievance. The Unit Head shall forward a copy of the grievance to COHR.

5. If a supervisor is confronted with a situation that is outside their supervisory scope and above their supervisory chain of command, he shall forward it to the Unit Head for handling.

B. Step Two

1. If the employee is not satisfied with the outcome of Step One, or if a response is not provided within the prescribed time limit, the employee may submit their written grievance by completing the Step Two Unit Head/Designee portion of the Employee Grievance Form, and submit it to the Unit Head or their designee. This shall occur:
 - a. within seven (7) calendar days following the date the employee received the supervisor's Step One response; or
 - b. within seven (7) calendar days following the date the supervisor's Step One response was due, if the supervisor fails to respond within the prescribed time limit.
2. The Unit Head/designee shall schedule a hearing, and may also reschedule or continue a grievance hearing. The Unit Head/designee shall give the employee must reasonable advance notice of the hearing. The employee must be present at the hearing.
3. The Unit Head/designee shall complete the Step Two Unit Head/Designee portion of the Employee Grievance form, and provide a written response to the employee within 14 calendar days after receipt of the grievance. A copy of the completed Step Two Employee Grievance Form shall be provided to COHR and all parties involved in Step Two of the grievance procedure.

C. Step Three

1. If the employee is not satisfied with the outcome of Step Two or if a response is not provided within the prescribed time limit, the employee may submit their written grievance by completing the Step Three: Deputy Secretary/Designee portion of the Employee Grievance. This shall occur:
 - a. within seven (7) calendar days following the date the employee received the Unit Head's Step Two response; or
 - b. within seven (7) calendar days following the date the Unit Head's Step Two response was due, if the Unit Head/designee fails to respond within the prescribed time limit.

2. The Step Three grievance shall include copies of Step One and Step Two decisions.
3. The employee shall also submit a copy of his Step Three grievance request to his Unit Head as notification that the grievance is on appeal to the Deputy Secretary.
4. The Deputy Secretary/designee shall handle the Step Three grievance as follows:
 - a. Respond to the grievance after reviewing the Step One and Step Two responses;
 - b. Respond after conducting further investigation;
 - c. Conduct a hearing;
 - d. Any combination of the above.

If the Deputy Secretary conducts a hearing, the employee must be given at least three (3) business days advance notice. The employee must attend the hearing.

5. The Deputy Secretary/designee shall complete the Step Three Deputy Secretary/Designee portion of the Employee Grievance form, and provide a written decision to the employee within 14 calendar days following receipt of the grievance. Additionally, a copy of the completed Step Three Employee Grievance Form shall be provided to COHR and all parties involved in Step Three of the grievance procedure.

IX. DISMISSAL OF GRIEVANCE:

- A. When a Unit Head receives a grievance, he/she may discuss it if its subject matter is not appropriate for the grievance procedure. Employees shall be notified in writing within 14 days if their complaint is dismissed.
- B. Grievances may be dismissed at any stage of the process by the Unit Head or the Deputy Secretary/designee due to one or more of the following situations:
 1. The action is appealable to the Director of Civil Service or to the Civil Service Commission.
 2. The employee does not work for the agency.
 3. The person against whom the grievance is filed does not work for the agency.
 4. The grievance has not been submitted in the required manner or within the prescribed time period.

5. A decision on the grievance would be ineffective or moot.
6. The remedy requested cannot be granted.
7. The Unit Head or Deputy Secretary/designee determines the grievance is frivolous.
8. The grievance is being used to impede the efficient operation of the agency.
9. The employee did not appear for the grievance hearing.

When a Unit Head or Deputy Secretary/designee dismisses a grievance, they shall send written notice of the dismissal to the employee, COHR, and the supervisor or Unit Head who received the grievance.

X. RESPONSIBILITIES OF HUMAN RESOURCES:

- A. COHR shall be responsible for maintaining grievance records. All records and documents related to grievances shall be filed in accordance with YS Policy No. A.2.12.
- B. The COHR shall track the number and nature of grievances through the Human Capital Management (HCM) system under the grievance info-type to help define and address internal concerns and issues.
- C. COHR is responsible for compiling employee grievance statistics for submission as part of the Quarterly Statistical Performance Report process.
- D. COHR shall provide training and support to Unit Heads and supervisors upon request.
- E. COHR shall analyze grievances and report notable trends to the Deputy Secretary on an annual basis.

Questions regarding grievances shall be directed to COHR.

Previous Regulation/Policy Number: A.2.46.)
Previous Effective Date: 5/29/09



Attachments/References: A 2 46 (a) CHOOSING THE RIGHT PROCESS August 2011.docx



A.2.46 (b) Employee Grievance Form August- 2011.docx